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09/850,181	05/07/2001	Frederick Murray Burg	2000-0012	1252
30083	7590	02/13/2004	EXAMINER	
PERKINS COIE LLP/AWS P.O. BOX 1247 SEATTLE, WA 98111-1247			ANWAH, OLISA	
			ART UNIT	PAPER NUMBER
			2645	

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Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/850,181

Applicant(s)

BURG ET AL.

Examiner

Olisa Anwah

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-22 and 24-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 11.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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**DETAILED ACTION**

1. The declaration filed on 12/12/2003 under 37 CFR 1.131 has been considered but is ineffective to overcome the Shavit reference. Page 1 of the declaration states, "The date of this letter is prior to April 26, 2001" (last sentence of 2<sup>nd</sup> paragraph). However no evidence was submitted to support this statement. Further, no evidence was submitted to support that exhibit A (i.e. the cover letter and the draft of the current application) was prepared before 4/26/01. A general assertion "amounts essentially to mere pleading, unsupported by proof or a showing of facts" and, thus does not satisfy the requirements of 37 CFR 1.131(b) *In re Borkowski*, 505 F.2d 713, 184 USPQ 29 (CCPA 1974). Applicant must give a clear explanation of the exhibits, pointing out exactly what facts are established and relied on by applicant.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in-

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(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or  
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claims 1-6, 8-22 and 24-32 are rejected under 35 U.S.C. § 102(e) as being anticipated by Shavit et al, U.S. Patent Application Publication No. 2002/0160757 (hereinafter Shavit).

Regarding claim 1, Shavit discloses a method of tracking status information of communication devices of a user comprising storing information about a plurality of communication devices associated with the user, wherein at least two of the communication devices belong to different types of networks and do not depend on each other's network for a communication and receiving the status information regarding the at least two of the communication devices from respective networks (see Figures 2 and 3E, also see paragraphs 0033-0051).

Regarding claims 2-6, 8-22 and 24-32, see Figures 2 and 3E. Also see paragraphs 0033-0051.

4. Claims 1-6, 9-22 and 24-32 are rejected under 35 U.S.C. § 102(e) as being anticipated by Singh, U.S. Patent No. 6,405,035 (hereinafter Singh).

Regarding claim 32, Singh discloses a method of providing an alternative communication path to a user comprising:

storing information about a plurality of communication devices associated with the user, wherein at least two of the plurality of communication devices belong to different types of networks (col. 3, lines 35-45);

querying (302) the different types of networks for status information of the at least two of the plurality of communication devices, wherein the status information includes presence information (col. 3, lines 55-65) and activity information and indicates whether the at least two of the plurality of communication devices are currently on-line and when they were last active (col. 2, lines 15-20 and col. 5, lines 23-25);

receiving the status information regarding the at least two of the plurality of communication devices from respective networks (302);

receiving a request from one of the different types of networks for an alternative communication path for a call that

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the one of the different types of networks was unable to complete due to the user's absence (306);

evaluating the received status information to determine the communication device at which the user can likely be reached; selecting the communication device at which the user can likely be reached as the alternative communication path; and redirecting the call to the network to which the selected communication device belongs, thereby enabling a communication path to be established to the user's selected communication device (314).

Claim 22 is rejected for the same reasons as claim 32.

Regarding claims 24-29 see lines 35-65 of column 3, lines 10-35 of column 2, and lines 23-25 of column 5. Also see Figure 3.

Regarding claim 30, see Figure 1.

Regarding claim 31, see Figure 4.

Claim 21 is rejected for the same reasons as claim 22.

Claim 9 is rejected for the same reasons as claim 21.

Regarding claims 10-16, see lines 35-65 of column 3, lines 10-35 of column 2, and lines 23-25 of column 5. Also see Figure 3.

Regarding claims 17-19, see Figures 1 and 4.

Regarding claim 20, see col. 6, line 31.

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Claim 1 is rejected for the same reasons as claim 9.

Regarding claims 2-6, see lines 35-65 of column 3, lines 10-35 of column 2, and lines 23-25 of column 5. Also see Figure 3.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 7 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Shavit in view of Voit et al, U.S. Patent No. 5,805,682 (hereinafter Voit).

Regarding claim 7, Shavit discloses the communication devices are selected from a group consisting of a telephone, cellular phone and personal computer. Shavit does not disclose the group consists of a set-top box. However Voit discloses this limitation (see abstract). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shavit wherein the group of communication

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devices includes a set-top box as disclosed by Voit. This modification would allow a user to view video messages as suggested by Shavit (paragraph 0029).

7. Claim 33 is rejected under 35 U.S.C § 103(a) as being unpatentable over Shavit in view of Parsons et al, U.S. Patent Application Publication No. 2002/0085701 (hereinafter Parsons).

Regarding claim 33, Shavit does not disclose the storing is performed through an Internet portal site by providing the user with a predetermined registration procedure to enroll in the service of the method. However Parsons discloses this limitation (see paragraph 0050 and Figure 4A). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shavit with the Internet portal site disclosed by Parsons. This modification would allow a user to personalize settings as suggested by Parsons and Shavit.

8. Claim 33 is rejected under 35 U.S.C § 103(a) as being unpatentable over Singh in view of Parsons.

Regarding claim 33, Singh does not disclose the storing is performed through an Internet portal site by providing the user with a predetermined registration procedure to enroll in the service of the method. However Parsons discloses this



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limitation (see paragraph 0050 and Figure 4A). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Singh with the Internet portal site disclosed by Parsons. This modification would allow a user to personalize settings as suggested by Parsons and Singh.

9. Claims 7 and 8 are rejected under 35 U.S.C § 103(a) as being unpatentable over Singh in view of Voit.

Regarding claim 7, Singh discloses the communication devices are selected from a group consisting of a telephone, cellular phone and personal computer. Singh does not disclose the group consists of a set-top box. However Voit discloses this limitation (see abstract). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Singh wherein the group of communication devices includes a set-top box as disclosed by Voit. This modification allows for a system that accommodates Web-TV or a cable network as suggested by Singh (column 7).

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Regarding claim 8, Singh discloses the different types of networks are selected from the group consisting of an Internet, a telephone network and a cellular phone network. Singh does not disclose the group consists of a video network. However Voit discloses this limitation (see column 1). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Singh wherein the different types of networks includes a video network as taught by Voit. This modification allows for calls to be integrated into video networks as suggested by Voit.

#### ***Response to Arguments***

10. Applicant argues Shavit does not disclose storing information about a plurality of communication devices associated with the user, wherein at least two of the communication devices belong to different types of networks and do not depend on each other's network for a communication and receiving the status information regarding the at least two of the communication devices from respective networks. However Shavit discloses these limitations (see Figures 2 and 3E, also see paragraphs 0033-0051).

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**Conclusion**

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olisa Anwah whose telephone number is 703-305-4814. The examiner can normally be reached on Monday to Friday from 8.30 AM to 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 703-305-4895. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

C.A

Olisa Anwah  
Patent Examiner  
February 6, 2004

FAN TSANG  
SUPERVISORY PATENT EXAMINER  
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